**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX APPEAL NO. 437 OF 2004

The Commissioner of Income Tax-III,
Quereshi Mansion, Gokhale Road, Thane .. Appellant
V/s.
M/s. Dharmesh Finance & Investment Co.,
D/34, Shree Balkrishna Apt., Dombivli .. Respondent

Mr. R.V. Desai with Mr. R. Ashokan for the Appellant
Mr. A.K. Jasani for the Respondent

**CORAM : S. RADHAKRISHNAN &**
**J.P. DEVADHAR, JJ.**
**DATED : 01.02.2005**

**P.C.:-**

1. Heard the learned counsel for the Appellant and the learned counsel for the Respondent. In the above matter, the learned counsel for the Appellant sought to raise the following questions, as substantial questions of law:-

(a) Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal is justified in confirming the order of the CIT(A) in deleting the addition of Rs. 2,20,600/- for A.Y. 1992-93 made on accounts of the unexplained cash credits u/s. 68 of the Income-tax Act, 1961.

(b) Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal is justified in confirming the order of the CIT(A) in deleting the addition of Rs. 45,340/- for A.Y. 1992-93 made on account of the interest claims have been paid on unproved cash credits.

2. We have perused the judgment and order dated 21.10.2002 passed by the Income Tax Appellate Tribunal, Mumbai Bench, specially paragraph no. 8, which reads as under:-

"8. On a careful consideration of the above, we are of the view that no strong grounds have been made out for disturbing the orders of the CIT(A). The assessee is engaged in the business of finance. The

loans were taken for the purpose of the assessee's business. Confirmation letters have been filed from



all the creditors. It was at the assessee's request that summons were issued to the creditors. The CIT (A) has recorded a finding, which has not been disputed before us, that the AO did not require the attendance of the creditors, but required them to furnish the particulars in support of the loans. The assessee was able to furnish the bank passbooks and the acknowledgements for filing the return of income as well as the income-tax file Nos. of the creditors. No steps appear to have been taken by the Assessing Officer, as found by the CIT(A), to cross verify the assessee's claim that the loans have been reflected in the income-tax records of the creditors. Thus, the case appears to us to fall within the ratio of Orissa Corporation's case (supra). The assessee has furnished whatever evidence it could in support of the loan and has thus discharged its burden. In these circumstances, the CIT(A) has rightly deleted the addition and the disallowance of the interest."

In view of the same, the above matter only pertains to finding of fact and there is no substantial question of law, hence the Appeal stands dismissed.

**(S. RADHAKRISHNAN, J.)**

**(J.P. DEVADHAR, J.)**